

# CHAPTER 1 INTRODUCTION

Resource Management Plans (RMPs) are the principal instruments used by the U.S. Department of the Interior (USDI), Bureau of Land Management (BLM) to manage public land and resources, including subsurface Federal mineral estate. According to the Federal Land Policy and Management Act of 1976 (FLPMA), the BLM is responsible for managing public land and resources to allow for multiple-use while assuring the sustained yield, diversity, and productivity of public land for present and future generations. This general mandate can be realized in a number of ways, and each RMP is a reflection of the unique set of issues, management concerns, resource conditions, and community needs and desires attached to a management area. Because circumstances, legislation, and policies change or evolve over time, RMPs are periodically reviewed for relevance and effectiveness.

Two existing plans are addressed in this document: The *White Sands RMP* (USDOI BLM1986a) and the *Mimbres RMP* (USDOI BLM1993). The *White Sands RMP* is being completely revised and the *Mimbres RMP* is being amended in part. The result will be the *TriCounty RMP* which will replace the *White Sands RMP* and supersede the *Mimbres RMP* for Doña Ana County. Consequently, a new *Planning Area* which did not previously exist, The *TriCounty Planning Area*, will be created for the Las Cruces District. This revision and amendment are jointly addressed along with an Environmental Impact Statement (EIS) in this document. Together the RMP Revision and RMP Amendment and associated EIS are called the *TriCounty Resource Management Plan and Environmental Impact Statement*. The *Mimbres RMP* will continue to guide the management of public land in Luna, Grant, and Hidalgo Counties in the remainder of the Las Cruces District.

## 1.1 PURPOSE AND NEED FOR THE RMP AND ENVIRONMENTAL IMPACT STATEMENT

FLPMA directs the BLM to manage the public land and resources to allow for multiple-use while assuring the sustained yield, diversity, and productivity of that land for present and future generations. As directed by FLPMA, the primary way of accomplishing this mandate is through the development and updating of resource management plans. The BLM Las Cruces District has determined that the two primary RMPs it relies on to direct management of public land in the Las Cruces District, *White Sands RMP* covering Sierra and Otero Counties and the *Mimbres RMP* for Doña Ana County, are inadequate for a number of resources and need to be revised or amended to conform with latest policies and to provide updated management direction. The *Mimbres RMP* will continue to apply to Luna, Grant and Hidalgo Counties. Once the Record of Decision is issued for the *TriCounty RMP*, all public land management decisions pertaining to Sierra, Otero, and Doña Ana Counties will be contained in the *TriCounty RMP*.

The purpose for revising the existing RMPs is to consolidate, update, and establish appropriate goals, objectives, land use allocations, management actions, priorities, and procedures, within a multiple-use management context, for the BLM public land resource programs administered by the Las Cruces District Office within Sierra, Otero and Doña Ana Counties. The RMP is to provide a land use plan consistent with current laws, regulations and policies, and to update resource management direction to allow the Las Cruces District Office to meet nationwide BLM goals and objectives and to ensure actions taken are consistent with current BLM policy.

The need for revising the two RMPs is that new issues have arisen and new policies have been developed and implemented regarding renewable energy siting, outdoor recreation management, special status species habitat, and proposals for special designations. Neither of the existing plans adequately addresses these issues, policies, and guidance. The *White Sands RMP* does not conform with or adequately address current policy on off-highway vehicle (OHV) use and route designations. The *Mimbres RMP* identified

as suitable for disposal a large area of the public land between Las Cruces and the Organ Mountains. Since the adoption of that plan, the interest in retaining public land in Federal ownership has increased. The impacts of potential land disposals on adjacent military operations, on Section 15 grazing leases, and on community lifestyle were not adequately addressed in the existing RMPs. Neither of the existing RMPs reflects new policies or guidance on planning for recreation management; nor does either plan specifically address renewable energy projects siting. The plans will update guidance on other programs as well including wildlife habitat management, fire management, vegetation restoration, and the impacts of a growing population on the use of nearby public land. In short, over the last 20-25 years the management situation of the public land within the Las Cruces District has changed significantly. A new RMP is necessary to address this changing situation.

Some of the relevant law, policy, and guidance changes that have occurred since the previous plans were signed and need to be considered in the revised RMP include:

- Manual 6400, Wild and Scenic River Policy and Program Direction for Identification, Evaluation, Planning and Management (USDOI BLM 2012)
- Manual 6330, Management of Wilderness Study Areas (USDOI BLM 2012).
- National Fire Plan (DOI and USDA 2000)
- New Mexico Standards for Public Land Health and Guidelines for Livestock Grazing Management (BLM 2001a)
- National Management Strategy for Motorized Off-Highway Vehicle (OHV) Use on Public Lands (USDOI BLM 2001)
- Manual 6840, Special Status Species (USDOI BLM 2001c)
- Healthy Forests Restoration Act of 2003
- Manual H-8410-1, BLM Visual Resource Inventory, Section V. Visual Resource Classes and Objectives (USDOI BLM 2003)
- Energy Policy Act of 2005
- Handbook H-1601-1, Land Use Planning Handbook (USDOI BLM 2005d)
- BLM Instruction Memoranda and Executive Orders

The RMP will establish consolidated guidance and updated objectives and management actions for the public land within the *TriCounty* area. It will be comprehensive in nature and will address issue categories applicable within the Decision Area that have been identified through agency, interagency, and public scoping efforts. Preliminary issues for the *TriCounty Planning Area* have been identified by BLM personnel, other State and Federal agencies, and other stakeholders. These issues include:

- Renewable energy development for solar, wind, and geothermal power;
- Management of rights-of-way for renewable energy and other uses;
- Visual Resource Management (VRM) Classes;
- Land tenure adjustments to meeting community growth needs;
- Disposal of public land adjacent military operations;
- Population growth and urban interface;
- Open space;
- Economic and Social Conditions;

- Management of split estate land;
- Evaluation of existing and potential new Areas of Critical Environmental Concern (ACEC);
- OHV designations and Special Resource Management Areas (SRMAs);
- Recreation management; and
- Grazing management

The EIS for the *TriCounty* RMP will identify the potential impacts that land use plan decisions could have and the appropriate measures to mitigate those impacts. The primary purpose of the EIS is to analyze and document the direct, indirect, and cumulative impacts of the reasonably foreseeable future actions resulting from BLM's management decisions. By law, these impacts must be analyzed before the BLM makes an irreversible commitment of public land resources. This EIS satisfies the requirements of the National Environmental Policy Act of 1969 (NEPA), Council on Environmental Quality regulations implementing NEPA (Title 40 Code of Federal Regulations [CFR] Sections 1500 to 1508), FLPMA, and other associated regulations.

## 1.2 PLANNING AREA DESCRIPTION

BLM's Land Use Planning Handbook (H-1601-1) differentiates between geographic areas associated with planning. They include the *Planning Area*, *Decision Area*, and *Analysis Area*.

The *Planning Area* is the region within which BLM will propose management decisions during a planning effort. The three-county area addressed in this document is referred to as the *TriCounty Planning Area*. It includes all land—public and private, regardless of jurisdiction or ownership—in Sierra, Otero, and Doña Ana Counties in south-central New Mexico (Map 1-1).

The *Decision Area* includes all public land in the *Planning Area* for which BLM has authority to make land use decisions (Table 1-2). Generally, the BLM has jurisdiction over all BLM-administered lands (surface and subsurface) and over subsurface minerals in areas of split estate (the surface is owned by a non-Federal entity such as with State Trust land or private land).

The *Analysis Area* includes any lands, regardless of jurisdiction, for which the BLM synthesizes, analyzes, and interprets information that relates to planning for BLM-administered land. The analysis area generally comes into consideration in the Cumulative Impacts analysis in Chapter 4.

The *TriCounty Planning Area* of Sierra, Otero and Doña Ana counties consists of about 9.3 million acres. This includes about 2.82 million Federal surface acres (about 32 percent of the total *Planning Area* acres) and 3.98 million acres of Federal mineral estate (subsurface) that are administered by the BLM. The BLM is the largest single owner/administrator of land within the *Planning Area*. BLM administered land is officially known as the National System of Public Lands or public land. BLM-administered land, BLM-managed land, BLM land, and public land is used interchangeably throughout this document.

While this RMP addresses only management of the public land and resources, management decisions for public land can and do have an effect on non-BLM lands. These effects are analyzed in Chapter 4 as appropriate.

Within the *Planning Area*, the BLM manages 26 special management areas: 13 ACECs; one research natural area (RNA); 10 wilderness study areas (WSAs); one National Natural Landmark; one Backcountry Byway; and one National Historic Trail.

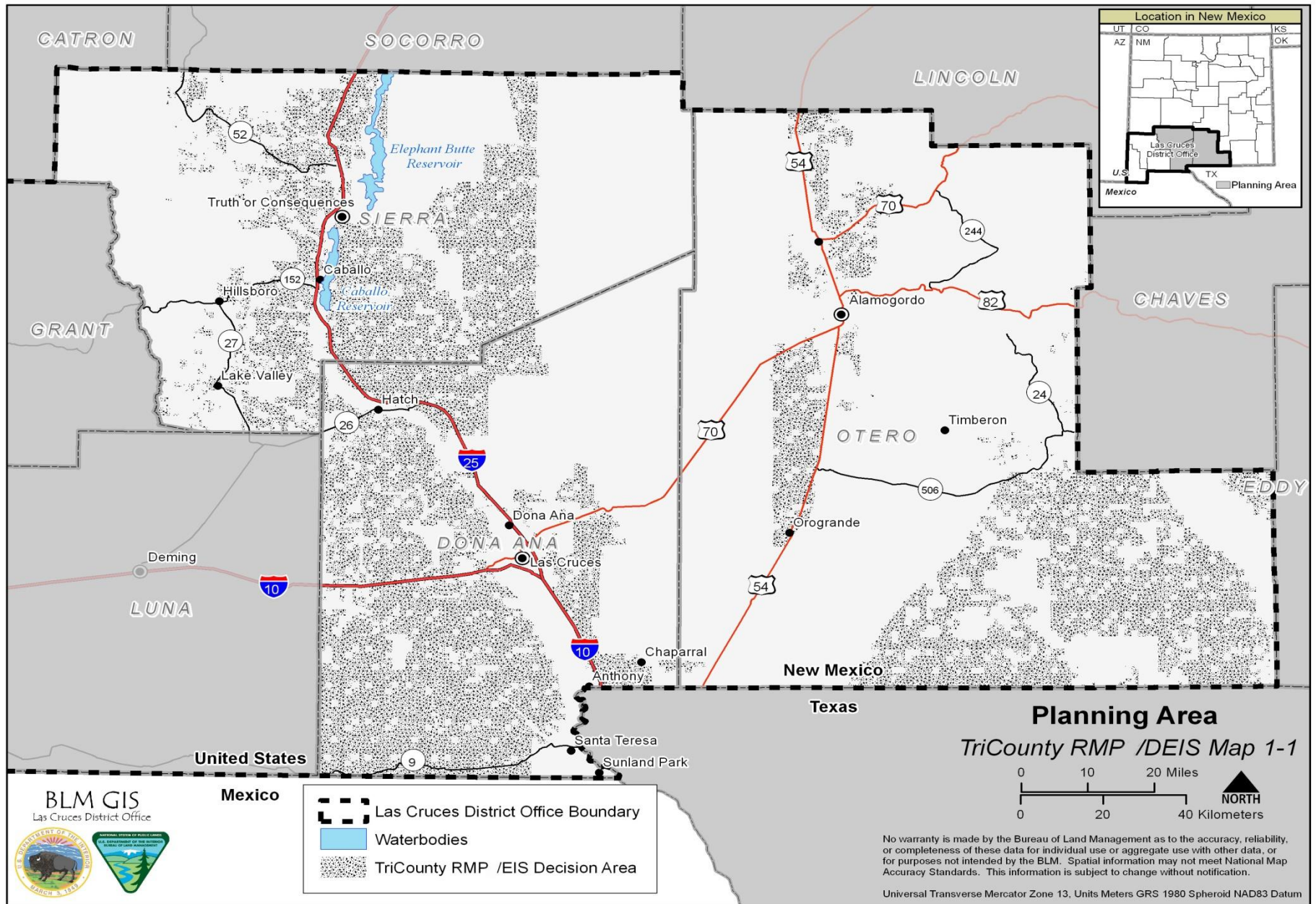
Other areas of Federally-managed land in the *Planning Area* include portions of the military installations of White Sands Missile Range, which extends partially into each of the three counties; McGregor Range and Holloman Air Force Base in Otero County; and Doña Ana Range, which extends into Otero and Doña Ana counties. U. S. Forest Service units include portions of the Gila National Forest and the Cibola National Forest in Sierra County; and the Lincoln National Forest in Otero County. A large portion of the Mescalero Apache Indian Reservation in Otero County is also within the *Planning Area*.

Although much of the 606,157-acre McGregor Range consists of public land managed by the BLM, it is withdrawn from the public domain for military use, and special restrictions apply in that area. Management of the Range is addressed in the *McGregor Range RMP Amendment*, which amended the 1986 *White Sands RMP* and replaced the 1990 *McGregor Range RMP Amendment*. A Record of Decision (ROD) approving the RMP Amendment was issued by the BLM Las Cruces District Office in May 2006, and since that RMP amendment is still valid, the Range is excluded from consideration in the *TriCounty Range RMP/EIS*. However, McGregor Range is considered as part of the *Planning Area*.

Physically, the *TriCounty Planning Area* encompasses a diversity of landscapes, vegetation communities, and wildlife in the Chihuahuan Desert, Mexican Highland, southern Rocky Mountains, and Mogollon Plateau. Elevations in the *Planning Area* range from 3,800 to 9,000 feet, with desert-mountains rising abruptly from gently sloping plains. Approximately 490 species of vertebrate wildlife are known to inhabit the region. Archaeological and historical studies indicate that a succession of different cultural groups have inhabited the region for about the past 12,000 years.

#### 1.2.1 LAND MANAGEMENT STATUS IN THE *PLANNING AREA*

Table 1-1 shows the surface management/administration by agency or entity by county in the *Planning Area*. In addition to BLM, other Federal land managers in the *Planning Area* are: the Department of Agriculture, Department of Defense, Forest Service, National Park Service (NPS), Fish and Wildlife Service (USFWS), and the Bureau of Reclamation. Many isolated parcels of State Trust land (administered by the New Mexico State Land Office) and isolated parcels of private land are interspersed with public land throughout the *Planning Area*. Table 1-1 and Map 1-2 show the surface ownership of acreage in the *TriCounty Planning Area* that is managed by Federal agencies, American Indian tribes, the State of New Mexico, or private owners.



| TABLE 1-1<br>SURFACE MANAGEMENT OR OWNERSHIP IN THE TRICOUNTY PLANNING AREA   |                  |                  |                  |                        |                             |
|---|------------------|------------------|------------------|------------------------|-----------------------------|
| ACRES PER COUNTY  |                  |                  |                  |                        |                             |
| SURFACE MANAGER   | SIERRA           | OTERO            | DOÑA ANA         | TOTAL                  | PERCENT OF<br>PLANNING AREA |
| FEDERAL   |                  |                  |                  |                        |                             |
| Department of Agriculture   | 0                | 0                | 109,464          | 109,464                | 1.2                         |
| Department of Defense   | 516,996          | 711,793          | 490,881          | 1,719,670              | 18.5                        |
| Bureau of Land Management   | 773,222          | 1,537,837        | 1,116,247        | 3,427,306 <sup>1</sup> | 36.8                        |
| Bureau of Reclamation   | 125              | 0                | 837              | 962                    | 0.0                         |
| Forest Service  | 378,440          | 555,827          | 0                | 934,267                | 10.0                        |
| Fish and Wildlife Service   | 0                | 0                | 56,775           | 56,775                 | 0.6                         |
| National Park Service   | 0                | 91,876           | 52,548           | 144,424                | 1.5                         |
| AMERICAN INDIAN TRIBES  | 0                | 459,719          | 0                | 459,719                | 4.9                         |
| STATE OF NEW MEXICO   | 360,844          | 338,532          | 228,079          | 927,445                | 10.0                        |
| PRIVATE   | 681,173          | 469,919          | 387,139          | 1,538,231              | 16.5                        |
| <b>Totals</b>   | <b>2,710,800</b> | <b>4,165,503</b> | <b>2,441,970</b> | <b>9,318,263</b>       | <b>100</b>                  |
| NOTE: <sup>1</sup> Includes 606,157 acres in McGregor Range but which are not addressed in the <i>TriCounty</i> RMP. Total BLM surface ownership in the Decision Area is 2,821,149 acres. |                  |                  |                  |                        |                             |

Table 1-2 shows the Federally-owned surface and mineral estate within the Decision Area and to which the decisions in this RMP apply. BLM managed surface estate is approximately 2.82 million acres and subsurface estate, including split estate lands, is approximately 3.98 million acres.

| TABLE 1-2<br>FEDERAL MINERAL ESTATE BY SURFACE OWNER ADMINISTERED BY BLM<br>WITHIN THE TRICOUNTY DECISION AREA <sup>1</sup>   |           |           |           |           |
|---|-----------|-----------|-----------|-----------|
| ACRES PER COUNTY  |           |           |           |           |
| SURFACE MANAGER   | SIERRA    | OTERO     | DOÑA ANA  | TOTAL     |
| BLM Surface Ownership   | 773,222   | 931,680   | 1,116,247 | 2,821,149 |
| BLM Surface, Federal Minerals   | 769,385   | 931,252   | 1,099,248 | 2,799,885 |
| Non-BLM Surface, Federal Minerals   | 274,669   | 638,887   | 270,815   | 1,184,371 |
| Federal Mineral Ownership   | 1,044,054 | 1,570,139 | 1,370,063 | 3,984,256 |
| NOTE: <sup>1</sup> Decision Area is the BLM-administered surface and subsurface estate within the three counties to which the decisions within this RMP apply. It does not include military land, McGregor Range, or other withdrawals. |           |           |           |           |

## 1.3 OVERALL VISION FOR THE RMP/EIS

Since the *TriCounty* RMP is intended to guide management over the next 15-20 years, a long-term view of resource goals and the overall vision for management of the public land underlies the planning process. Establishing an overall vision ensures that the resource-specific steps taken during implementation of the RMP contribute to the larger goals for management of the public land, and the management direction in the *Planning Area* is consistent and mutually supportive with public land management throughout the State and agency. The overall vision for the RMP is provided by the State Director priorities, and goals which are specifically identified for the RMP.

### 1.3.1 STATE DIRECTOR PRIORITIES

The New Mexico State Director has identified several priorities for the management of the public land in New Mexico to be accomplished in the long-term:

- Restore watershed health
- Protect special landscapes
- Reclaim “*legacy*” lands (lands that have been damaged by historic use or extraction of resources)
- Help local communities meet future needs
- Enhance habitat for special status species
- Consolidate land ownership patterns
- Resolve mineral conflicts

### 1.3.2 RMP GOALS

Based on the State Director’s priorities, and the issues identified in the *TriCounty Planning Area*, the goals for this RMP include the following:

- Manage for long-term sustainability and to meet the Standards for Public Land Health for Upland Sites, Biotic Communities, and Riparian Sites.
- Within the capability of the *Planning Area*’s natural and cultural resources, provide tourism, recreational, educational, and research opportunities;
- Provide for production of goods and services from the public land while protecting the natural and cultural resources of that land for future generations.
- Within the capability of the *Planning Area* resources, provide a predictable, sustained flow of economic benefits to individuals and local communities; and
- Work with local American Indian Tribes and local communities to meet their needs within the mission of the BLM.

## 1.4 ISSUES TO BE ADDRESSED IN THE TRICOUNTY RMP/EIS

The BLM, cooperating agencies, other Federal and State agencies, and the general public raised a number of issues and concerns to be addressed in the RMP. The BLM land use planning process is driven by these issues and concerns to resolve resource management problems and take advantage of management opportunities. The following sections summarize the broad scope of issues and management concerns that determined the alternatives and the scope of analysis for the *TriCounty RMP/EIS*.

### 1.4.1 PLANNING ISSUES

A planning issue can be defined as an opportunity, conflict, or problem regarding the use or management of the public land and resources. The Preparation Plan for the *White Sands RMP Revision* and *Mimbres RMP Amendment*, prepared by the BLM in 2003, identified several preliminary issues and management concerns to be addressed in the *TriCounty RMP/EIS* (USDOI BLM 2003a). In addition, the BLM began conducting informal public information meetings in 2003 to help the BLM understand community interests related to public land, gather information to help frame a comprehensive set of issues regarding management of public land in the *Planning Area*, and identify opportunities to improve public land management. This was prior to official public scoping which started in January of 2005.

The issues identified through this process were grouped into four general categories. These categories are framed as questions here. Each issue contains a list of management decisions to be made, also framed as questions.

## **ISSUE 1**

**How can the conditions of the natural and cultural resources be managed or enhanced given the public's desire to use public land in a variety of ways, including recreation and commercial uses?**

Questions to be considered in addressing Issue 1:

- *What decisions and measures would assure that known and unknown cultural, archaeological, and paleontological resources are preserved and protected?*
- *Which areas provide opportunities for recreation close to communities, and which areas provide opportunities for more remote, unstructured recreational experiences, and how should these areas be managed?*
- *What lands in the Decision Area should be identified for disposal, retention, and acquisition to improve development and manageability of BLM's land ownership pattern to effectively manage its resource programs?*
- *How should lands that are found to have wilderness characteristics (naturalness, solitude, and opportunities for primitive recreation), be managed?*
- *How should mineral resources be managed to minimize conflicts in areas of intense recreational use?*
- *How should vegetation be managed to provide forage for livestock and wildlife while protecting and sustaining watersheds in areas that are increasingly urbanized or under pressure for mineral and energy development?*
- *What decisions would help identify strategies and measures for improving and coordinating the control of noxious weeds?*

## **ISSUE 2**

**How can public land be used to promote the social and economic well-being of the population in general and the interest of specific subgroups of the populations, given the need to protect cultural and natural resources?**

Questions to be considered in addressing Issue 2:

- *Which areas should be designated open, closed, or limited to OHV use?*
- *Which specific vehicle routes or "ways" in ACECs, special recreation management areas (SRMAs) and WSAs should be available for motorized use and what kinds of limitations (i.e., season of use, type of vehicle) should be applied to those routes?*
- *Which areas should be designated as ACECs, SRMAs, or other designations, and how should they be managed?*
- *Should existing special designations be dropped from certain areas?*



- *How will visual resource management classifications be applied throughout the Decision Area as to protect scenic values and, at the same time, conform to other resource allocation decisions?*
- *Which areas should be protected for wilderness characteristics and how?*

### **ISSUE 3**

#### **What BLM support, facilities, and/or services are needed to accommodate growing demands on public land in the *Planning Area*?**

Questions to be considered in addressing Issue 3:

- *How should BLM pursue and acquire legal and physical access to public land where it is needed to meet management objectives?*
- *How will travel management areas be determined in the Decision Area?*
- *Which areas should be designated as right-of-way corridors, and which areas should be designated for avoidance or exclusion of rights-of-way?*
- *What management decisions would be implemented to protect fish and wildlife species and habitat?*

### **ISSUE 4**

#### **How should BLM manage and provide for development of energy resources, both renewable and nonrenewable, on public land in the *Planning Area*?**

- *How should BLM address the court's decision on previous analysis of oil and gas management in Sierra and Otero Counties?*
- *How should fluid minerals be managed while protecting natural and cultural resources?*
- *How should the Las Cruces District incorporate the best management practices and policy direction from the BLM's Renewable Energy Programmatic EISs; and which areas, if any, within the Decision Area should be identified as most suitable for the development of utility-scale wind and solar energy facilities?*

#### **1.4.2 ISSUES CONSIDERED BUT NOT FURTHER ANALYZED**

Although all issues were considered, not all issues raised during the public involvement process are analyzed in the RMP/EIS. Other issues are relevant to site-specific or implementation-level decisions, but are not relevant to this RMP/EIS process. Several such issues, which were considered but not analyzed further, are presented below, by issue category.

**Issues Beyond BLM's Regulatory Authority:** Some of the issues identified during scoping were outside BLM's regulatory authority. Some of the issues are more relevant to the oversight of other agencies, or simply unregulated by any agency. For example:

- *Regulation of hunting of nonnative species,*
- *Designating WSAs,*
- *Estimating the risk of flooding due to retention-pond failure on private property,*
- *Establishing grazing rates,*
- *Preservation and protection of cultural resource sites such as Fort Selden State Monument, Mount Cristo Rey, and the Lucero Wash petroglyphs.*

None of these fall under the scope of BLM's authority or responsibility.

**Issues Related to Financial Impacts:** An analysis of the financial costs associated with several management actions was requested as part of the RMP/EIS process. Issues included socioeconomic impacts and quantitative costs related to fisheries, loss of productivity of irrigated crops, and the spread of noxious weeds as a result of oil and gas development. Other issues were raised about the long-term economic cost of water pollution and lack of water recharge and about the cost of funding road maintenance and personnel (based on OHV use) that would occur under some of the alternatives. However, the economic impacts of these issues are impossible to quantify for the broad planning decisions made in the RMP, largely because the impacts would occur on a site-specific basis as a result of future activities that could be subject to additional NEPA compliance. However, the socioeconomic environment and potential impacts were considered to be within the purpose and scope of this document.

**Issues Addressed In Previously Adopted RMPs:** One commenter suggested that the RMP/EIS support development of the Camino Real Trail; however, *El Camino Real de Tierra Adentro National Historic Trail Comprehensive Management Plan and RMP Amendment* which BLM and National Park Service (NPS) share responsibilities for administering provides trail-related decisions that the Las Cruces District Office will carry forward in the *TriCounty* RMP (USDOI BLM 2004).

**Issues Associated with Infrastructure Availability:** With development occurring east of Las Cruces, the availability of water and natural gas to accommodate future demands and the costs of additional sewage treatment facilities, roads, bridges, electrical infrastructure, schools, and parks emerged as issues of concern during scoping. The BLM is not obligated to propose or develop community infrastructure; however, as part of the RMP/EIS process, BLM is coordinating with local jurisdictions to identify land that could be available for disposal to accommodate facilities such as schools and parks.

## 1.5 PLANNING CRITERIA

BLM planning regulations (43 CFR 1610) require the preparation of planning criteria preliminary to the development of all plans. Planning criteria provide direction for the RMP process and are established early, in conjunction with cooperating agencies. Planning criteria establish the principles that will guide the development of the Plan and influence all aspects of the planning process, including collection of resource and resource use inventory data, development of alternatives, analysis of impacts, and ultimately the selection of a preferred alternative. In effect, planning criteria assure that the planning process remains focused on the identified issues and prevent unnecessary data collection and analysis.

Planning criteria are developed on the basis of applicable laws, agency guidance, public involvement, data analysis, and professional judgment and in coordination with other Federal, State, and local governments.

The following general planning criteria have guided the preparation of the RMP and will continue to guide land use decisions made in the future:

- Comply with all laws, regulations, policies and orders regarding management of public land and resources as listed in Appendix A.
- Apply the principles of multiple-use and sustained yield as set forth in the Federal Land Policy and Management Act and other applicable laws.
- Use a systematic, interdisciplinary approach to achieve integrated consideration of physical, biological, economic, social, and environmental aspects of public land management.
- Give priority to the identification, designation, protection, and special management of ACECs.
- Consider the relative significance of the public land products, services, and uses to local economies.
- Rely on available inventories of the public land, its resources, and other values with updating the inventory to the extent necessary to reach sound management decisions.
- Consider present and potential uses of the public land including short-term and long-term management of oil and gas leasing.
- Consider incomplete and unavailable information related to fluid mineral potential and impacts when considering future planning decisions.
- Consider the relative scarcity of the values involved and the availability of alternative means (including recycling) and sites for realization of those values.
- Weigh long-term benefits and detriments against short-term benefits and detriments.
- Comply fully with applicable pollution control laws, regulations, and policies, including State and Federal air, water, noise, or other pollution standards or implementation plans.
- Coordinate (BLM) resource inventory, planning, and management activities with the resource planning and management programs of other Federal departments and agencies, State and local governments, and American Indian Tribes to the extent consistent with the laws governing the administration of the public land.
- Provide for public involvement including early notice and frequent opportunity for citizens and interested groups and others including American Indian Tribes to participate in and comment on the preparation of plans and related guidance.
- Comply fully with all Federal laws that guide management of specific resources such as the Endangered Species Act, Clean Water Act, National Historic Preservation Act, Taylor Grazing Act, and others.
- Comply fully with the BLM National policy on special status species.
- Reflect Federal land management agency obligations under applicable Tribal treaties and laws or executive orders relating to American Indian reserved rights, religious freedoms, traditional use areas, etc.

- Consider the importance of military missions.
- Comply with Executive Order 13443 – Facilitation of Hunting Heritage and Wildlife Conservation.
- Comply with the District Court and the Tenth Circuit Court decisions regarding fluid mineral leasing and management decisions for Sierra and Otero Counties.
- The planning team will work cooperatively with county and municipal governments; Federal, State, and local agencies; and interested groups and individuals. A process of collaborative public involvement and participation will continue throughout this process.
- The revision and the amendment will protect and enhance the biodiversity in the *Planning Area* while allowing the public the opportunity for access to public land in a productive and meaningful way.
- The revision and the amendment will recognize valid existing rights related to the use of the public land.
- The process will involve American Indian tribal governments and will provide strategies for protection of cultural resources on public land.
- Every effort will be made to ensure that decisions are compatible with existing plans and policies of adjacent local, State, and Federal governments and agencies while recognizing that decisions must be made in conformance with relevant laws, regulations, and BLM management policies.

## 1.6 LEGAL CONSIDERATIONS

### 1.6.1 FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976

The Federal Land Policy and Management Act (FLPMA) constitutes the so-called “*organic act*” for the BLM and governs most uses of the Federal public land, including grazing. The Act requires the Bureau to execute its management powers under a land use planning process that is based on multiple-use and sustained yield principles. Even though the Act declares that it is public policy to retain the public land in Federal ownership, the Act also provides for public land sales, withdrawals, acquisitions and exchanges.

### 1.6.2 NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

The Environmental Protection Agency (EPA) requires that the Federal Government cannot undertake any “*major Federal action*” unless and until the environmental consequences of that action have been thoroughly assessed. The Act requires that the Federal Government adhere to a standard procedure for determining the environmental impact of decisions or projects, and encourages decision-makers in Federal agencies to consider the environmental impact of every major project with Federal involvement. NEPA also requires Federal agencies to involve interested groups and the public in its decision-making process (Title 42 United States Code Part 4331). An EIS is being prepared as part of this land use planning process to identify the potential effects that implementation of the RMP Amendment and the RMP Revision could have on the environment and provides measures to minimize or mitigate those effects at a broad scale, if appropriate.

### 1.6.3 THE OMNIBUS PUBLIC LANDS MANAGEMENT ACT OF 2009

The Omnibus Public Lands Management Act of 2009 designated the Prehistoric Trackways National Monument at the south end of the Robledo Mountains. The Act required that a stand-alone management plan be prepared for the area. Consequently, that area is not further considered in the RMP and is not part of the *Decision Area*.

### 1.6.4 OTHER LEGISLATION

Numerous Federal laws, Executive Orders, and the regulations and policies based on those laws and orders guide development of BLM RMPs. Key laws applicable to this planning effort and the development of the planning criteria are listed in Appendix A.

### 1.6.5 COURT DECISIONS

On April 29, 2009, in *New Mexico v. BLM*, 565 F.3d 683 (10th Cir. 2009), the Tenth Circuit invalidated the BLM's Record of Decision adopting a Resource Management Plan Amendment concerning "*Federal Fuels Mineral Leasing in Sierra and Otero Counties*" (RMPA). The Tenth Circuit also affirmed the district court's determination in *New Mexico ex rel. Richardson v. BLM*, 459 F. Supp. 2d 1102 (D.N.M. 2006), that the RMP Amendment complied with FLPMA, affirmed the District Court's finding that NEPA requires BLM to conduct further site-specific analysis before leasing, and reversed the District Court's conclusion that BLM complied with NEPA in the RMP Amendment analysis. On December 7, 2009, the District Court set aside the invalid RMP Amendment and ordered the BLM not to "*execute the 2005 Bennett Ranch Unit lease without first conducting an appropriate environmental analysis pursuant to NEPA.*"

## 1.7 PLANNING PROCESS FOR *TRICOUNTY* RMP/EIS

The RMP preparation process employs several steps according to the BLM Land Use Planning Handbook, H-1601 (USDOI BLM 2005d). The public is encouraged to participate throughout the planning process, and the BLM is mandated to support and allow for public participation and review. This process also requires the expertise of an interdisciplinary team of resource specialists to complete each step.

### STEP 1 – PREPARATION PLAN

Potential issues were identified through internal discussions among the BLM staff at the District Office, State Office, and Washington Office levels prior to the beginning of the project. Local BLM staff also met with local governmental agencies and organizations and various user and interest groups. The official start of scoping and the RMP/EIS process began with the publication in the *Federal Register* of the Notice of Intent to update the RMP, prepare an EIS, and conduct public scoping meetings. The Notice of Intent was published on January 28, 2005. After the discussions, meetings with agencies and organizations, public scoping meetings, and review of public comments, the issues described in Section 1.4.1 were identified to be carried forward for analysis in the *TriCounty Draft RMP/EIS*.

Planning criteria were established to provide focus for data collection efforts, achieve compliance with legal mandates, and facilitate decision making. The planning criteria used to guide the development of the RMP/EIS are detailed in Section 1.5.

## **STEP 2 – SCOPING**

Scoping is the process by which the BLM solicits both internal and external input to identify relevant issues and concerns that need to be addressed within the scope of the RMP. These issues and concerns are analyzed in detail in the EIS as required by the NEPA. During scoping, the Las Cruces District Office engaged the public, local and State governments, Native American Tribes, and other Federal agencies to identify these issues and concerns. The scope of the analysis was then narrowed to those issues and concerns. The BLM held four public meetings in Las Cruces, Alamogordo, Truth or Consequences and Anthony, New Mexico. A scoping report was made available to the public on the BLM website in June 2005.

## **STEP 3 – ANALYZE MANAGEMENT SITUATION**

The *TriCounty Analysis of the Management Situation* is an assessment of the current situation as it relates to natural and cultural resource management and resource use on public land in the *TriCounty* area. That document does not compile all available data, but it does provide information appropriate to address the planning issues identified during scoping. The *TriCounty Analysis of the Management Situation* provides a profile of the resource concerns on the public land in Sierra, Otero, and Doña Ana counties; a description of the existing management situation as it pertains to management of the resources; and an analysis of opportunities to modify the existing management situation. The *TriCounty Analysis of the Management Situation* and accompanying resource maps are on file at the BLM Las Cruces District Office.

## **STEP 4 – FORMULATE ALTERNATIVES**

Four alternatives—A, B, C, and D—are examined in these *TriCounty RMP/EIS*. These alternatives were developed to respond to issues identified through scoping and management concerns. They explore alternatives to the existing management situation, and comply with the FLPMA requirement of managing for multiple-use and sustained yield on public land.

## **STEP 5 - ESTIMATE EFFECTS OF ALTERNATIVES**

The predicted effects resulting from each of the alternatives were identified and evaluated. Mitigation measures also were considered in evaluating impacts. A description of the existing environment in the *Planning Area* is included in Chapter 3, and potential environmental consequences are discussed in Chapter 4.

## **STEP 6 – IDENTIFY PREFERRED ALTERNATIVE**

Based on the information generated in Step 6, the BLM Las Cruces District Manager identified and recommended Alternative C to the BLM State Director as the preferred alternative.

## **STEP 7 – PREPARE THE DRAFT RMP/EIS**

A Draft RMP/EIS describing the purpose and need for the plan, the affected environment, the alternatives for managing public land, the environmental impacts of those alternatives, and the consultation and coordination in which the Las Cruces District Office engaged in developing the plan was distributed to the public initiating a 90-day review and comment period.

## **STEP 8 – PREPARE A PROPOSED RMP AND FINAL EIS**

Based on the results of public review and comments on the *TriCounty Draft RMP/EIS*, the BLM Las Cruces District Manager will recommend, and the BLM State Director will select, an alternative or a combination of the alternatives for the Proposed RMP and will publish that Proposed RMP and the Final EIS analyzing the impacts of the proposed plan.

## **STEP 9 – PROVIDE A PROTEST PERIOD AND RESOLVE PROTESTS**

A 30-day protest period will be provided during which individuals who participated in the planning process may protest any or all land use planning decisions contained in the Proposed RMP. The BLM Director must resolve all protests prior to issuing a Record of Decision (ROD) for the RMP. Implementation decisions contained in the RMP cannot be protested but can be appealed at the time of their implementation. These decisions and the appeal process will be identified in the proposed RMP.

## **STEP 10 – GOVERNOR’S CONSISTENCY REVIEW**

Concurrent with the 30-day protest period the BLM must provide a 60-day review period to the Governor of New Mexico to ensure consistency with State and local plans, policies and programs. Any responses from the Governor on consistency must also be resolved before the BLM issues a ROD.

## **STEP 11– PREPARE AND PUBLISH A ROD AND APPROVED RMP**

The approved RMP is typically the proposed RMP as modified in response to protests, the Governor’s consistency review, or other considerations. The plan is officially approved when the State Director signs the ROD adopting the RMP. The BLM will then publish the ROD and approved RMP in a single document, making it available to all interested parties.

## **STEP 12 – IMPLEMENT, MONITOR, AND EVALUATE PLAN DECISIONS**

Over time, the BLM will implement, monitor, and evaluate actions, resource conditions, and trends to determine if implementation of the RMP is occurring as planned, if management goals and objectives are being met, and whether there are unanticipated results from implementation. Monitoring and evaluation are essential components of an adaptive management approach, which will enable BLM to detect issues early enough to adjust implementation strategies as necessary to assure that goals and objectives are achieved. The RMP will be kept current through minor maintenance, amendments, or revisions as demands on resources change or new information is acquired.

## **1.8 RELATIONSHIP TO BLM POLICIES, PLANS, AND PROGRAMS**

The *TriCounty RMP/EIS* will replace the *White Sands RMP* and supersede the *Mimbres RMP* for Doña Ana County. In some cases, decisions from existing plans are brought forward to this RMP unchanged. For example, the ACEC designations that were made through the *RMP Amendment for Areas of Critical Environmental Concern in Otero County* (USDOI BLM 1997a) are incorporated into this RMP revision for Sierra and Otero Counties.

The BLM will continue to manage public land and mineral estate in accordance with the current, unrevised RMPs until the *TriCounty RMP/EIS* is completed and a ROD is signed.

### 1.8.1 RMP AMENDMENT FOR FLUID MINERALS LEASING AND DEVELOPMENT

In 2005, the BLM completed the RMP Amendment for fluid mineral leasing and development in Sierra and Otero Counties. The BLM intended to carry the management decisions in that plan amendment into the *TriCounty* RMP for the two counties and, where appropriate, apply those decisions to Doña Ana County. However, the District Court decision setting aside the RMP Amendment nullified the decisions in the plan. Consequently, management of oil and gas leasing reverts back to the decisions made in the *White Sands* and *Mimbres* RMPs. The BLM has previously determined that these planning decisions are insufficient for management of this resource and that there is a need to develop a management strategy for oil and gas leasing in the *TriCounty Planning Area* prior to any further leasing. To allow additional time for the BLM to gather and analyze the further information needed for the comprehensive analysis of fluid minerals leasing as identified by the courts in *New Mexico v. BLM*, 565 F.3d 683 (10th Cir. 2009) and *New Mexico ex rel. Richardson v. BLM*, 459 F. Supp. 2d 1102 (D.N.M. 2006), and in the interest of pursuing other decisions for all the many, crucial, non-fluid mineral resources in the *Planning Area*, the BLM will defer all oil and gas leasing in the *Planning Area* until the BLM prepares a new programmatic environmental analysis of oil and gas leasing upon completion of this RMP which in turn will operate to amend this RMP with respect to oil and gas development.

The primary area of concern regarding oil and gas leasing is the Otero Mesa in southern Otero County. Consistent with the courts' opinions in *New Mexico*, 459 F. Supp. 2d 1102 and *New Mexico*, 565 F.3d 683, the BLM needs to gather and evaluate additional information for this area, including impacts to vegetation, wildlife habitat and special status species and groundwater in the Salt Basin Aquifer including extent, amount, depth of the aquifer and potential effects from drilling and wastewater disposal. Air quality impacts also would have to be assessed and possibly modeled according to the interagency Air Quality Memorandum of Understanding (BLM MOU WO-200-2011-04).

Consequently, the Las Cruces District, has determined that in order not to delay the resource decisions analyzed in the *TriCounty* RMP any further, analysis of oil and gas leasing and development will take place in an RMP Amendment accompanied by suitable programmatic NEPA analysis for the program once the *TriCounty* RMP is completed. Until the programmatic NEPA analysis and the RMP Amendment are completed, oil and gas leasing in the *TriCounty Planning Area* will be deferred. The impacts of this deferral are analyzed accordingly for the *TriCounty* RMP.

### 1.8.2 STANDARDS FOR PUBLIC LAND HEALTH AND GUIDELINES FOR LIVESTOCK GRAZING MANAGEMENT

The alternatives analyzed in the RMP and EIS include management direction intended to complement or support, rather than replace, "*Standards for Public Land Health and Guidelines for Livestock Grazing Management*" (BLM 2001). These standards and guidelines were developed by the New Mexico State Director in consultation with the New Mexico Resource Advisory Committee (RAC). They were approved by the Secretary of the Interior in January 2001.

The fundamentals of rangeland health stated in 43 CFR 4180 include four elements: watershed, ecological processes, water quality, and plant animal habitats. The objectives for the public land health standards are to promote healthy, sustainable ecosystems; to accelerate restoration and improvements of public land to properly functioning conditions; and to provide for the sustainability of industry and communities that depend upon productive, healthy public land. The alternatives analyzed in the Draft RMP/EIS incorporate the principle that cumulative effects of all management activities, including Federally-authorized activities, determine whether the standards for land health would be achieved. Consequently, the effects of livestock grazing are not the only concern.



The New Mexico “*Standards for Public Land Health and Guidelines for Livestock Grazing Management*” are explained in detail in Appendix B (USDOI BLM 2000a)

### 1.8.3 WIND, SOLAR, AND GEOTHERMAL PROGRAMMATIC EISs

The BLM, in conjunction with other agencies including the Department of Energy (DOE), has prepared a number of BLM-wide programmatic EISs dealing with renewable and alternative energy development. In all cases, the *TriCounty* RMP/EIS incorporates by reference these documents and specific material from these documents has been quoted or summarized in various sections as may be appropriate and necessary to clarify discussion, description, and analysis. These documents include the following:

*Final Programmatic Environmental Impact Statement for the Designation of Energy Corridors in Eleven Western States* (2009). The PEIS identified energy corridors throughout BLM to facilitate future siting of oil, gas, and hydrogen pipelines, as well as renewable energy development projects and electricity transmission and distribution facilities on Federal lands in the West to meet the region’s increasing energy demands while mitigating potential harmful effects to the environment. Three corridors identified in the PEIS fall within the *TriCounty* Decision Area and are analyzed in this RMP/EIS.

*Final Programmatic EIS on Wind Energy Development on BLM-Administered Lands in the Western United States* (USDOI BLM 2005e). From this PEIS, BLM produced its wind energy development policy and best management practices. This also established consistency in processing right-of-way applications and management authorizations for wind energy site testing and development on public land. Any right-of-way applications for wind energy projects within the Decision Area would follow these procedures.

*Resource Management Plan Amendments for Geothermal Leasing in the Western United States* (2008). This document allocated BLM land as open to be considered for geothermal leasing or closed to leasing; and adopted stipulations, best management practices, and procedures for geothermal leasing and development. The EIS identified approximately 5 million acres open within the Las Cruces District.

Because geothermal leasing information for the *Planning Area* was compiled and addressed in the Resource Management Plan Amendments for Geothermal Leasing and policy and best management practices were developed in that document, the Las Cruces District believes that, in contrast to oil and gas fluid minerals, there is information and guidance sufficient to serve as grounds to analyze geothermal leasing decisions in the *TriCounty* RMP.

*Solar Energy Development in Six Southwestern States Programmatic EIS* (US DOI BLM 2012). The PEIS evaluates the agency’s proposed actions to establish a new BLM Solar Energy Program applicable to utility-scale solar energy development on BLM-administered land in Arizona, California, Colorado, Nevada, New Mexico, and Utah. This includes establishing policy direction and best management practices as well as identifying areas as available for consideration of siting utility-scale solar energy projects including the *TriCounty* Decision Area.

*El Camino Real de Tierra Adentro National Historic Trail Comprehensive Management Plan* (USDOI NPS and BLM 2004). This plan, written in cooperation with the National Park Service, responds to the Trail’s congressional designation and the requirements of the National Trails System Act. It identifies strategies to meet the following goals: a high-quality visitor experience, coordinated interpretation and education, effective administration, and active resource protection.

#### 1.8.4 OTHER BLM LAND USE PLANS

The 2006 *McGregor Range RMP Amendment* decisions will continue to be implemented and are not revised as part of the *TriCounty RMP*.

An RMP is being prepared for the Prehistoric Trackways National Monument (PTNM). That plan will be consistent with the *TriCounty RMP* but is a stand-alone plan that is outside the *TriCounty Decision Area*. Management of the Monument will be governed entirely by the PTNM RMP when it is completed.

The BLM *Las Cruces District Office Fire Management Plan* (USDOI BLM 2004a) and the 2004 *Statewide Resource Management Plan Amendment for Fire and Fuels* are used to coordinate the fire management program of the BLM Las Cruces District Office in the Gila-Las Cruces and the Lincoln fire management zones (USDOI BLM 2004b). The Joint Powers Master Agreement outline agreements and commitments among Federal agencies and the State of New Mexico for wildland fire protection, joint fire management, and large-fire support (USDOI BLM 2003b). The agencies jointly conduct mutual interest projects, within their authority, to maintain or improve fire management capability. While not all areas within the authority of the BLM Las Cruces District Office are entirely in the *Planning Area*, fire management resources from all areas may be used in the *TriCounty Planning Area*. Effective fire management will require close coordination among local and regional jurisdictions. The 2001 Federal Wildland Fire Management Policy provides guiding principles for Federal agencies that are fundamental to the success of the Federal Wildland Fire Management Program.

### 1.9 COLLABORATION AND CONSULTATION

Council on Environmental Quality regulations, which are contained in 40 CFR 1501.6 and 1508.5, implement the NEPA mandate that Federal agencies responsible for preparing NEPA analysis and documentation do so “*in cooperation with State and local governments*” and other agencies with jurisdiction by law or special expertise, as stated in Title 42 United States Code Parts 4331(a) and 4332(2). Cooperating agency status allows interested agencies to assume responsibilities beyond attending public meetings and to both review and comment on plan documents.

The BLM solicited several local, state and Federal Agencies to participate as Cooperating Agencies in the preparation of the *TriCounty RMP/EIS*. Initially, six agencies responded and became cooperators: City of Las Cruces, Doña Ana County, Otero County, Sierra County, New Mexico Department of Agriculture, and New Mexico Department of Game and Fish. In 2009, the U.S. Army White Sands Missile Range and U.S. Army Ft. Bliss requested cooperator status and it was granted.

In formulating the RMP, the BLM has worked collaboratively with local communities, the public, interested groups, and all levels of government to assure that the resulting plans have considered future needs.

A 60-day public scoping period was initiated in January 2005 with the publication of a Notice of Intent to prepare an RMP/EIS. BLM held four public meetings in Las Cruces, Alamogordo, Truth or Consequences and Anthony, New Mexico. The BLM also received 323 written comments during public scoping. Concerns or interests most addressed at the meetings and in the comments included management of biological resources, motor vehicle use, trails and access, special designations, and land disposal and retention.

Three public workshops were held in December 2006 to receive public input on the draft alternatives BLM had developed to that point. A total of 329 people attended those workshops.

Four newsletters were sent to the RMP mailing list during preparation of the document. The fourth newsletter asked for comments regarding changes to the RMP in fluid minerals management, renewable energy development, and livestock grazing management. Over 2,500 responses were received, 99 percent of which were form letter emails.

During the development of the *TriCounty* RMP/EIS, the BLM consulted with adjacent communities, military and other government agencies to determine to what extent these entities wanted to see land available for disposal to achieve their objectives for community expansion or other needs. The parcels identified for disposal under the various alternatives have been determined to meet the FLPMA criteria for disposal in terms of BLM needs and BLM management objectives; and to meet future growth needs of communities within the *Planning Area*. The BLM has made no determination as to whether the disposal parcels would be suitable for management and use by other Federal agencies. The BLM is not in a position to make that determination and other such uses are not addressed in this document.

Consultation has been initiated with the U.S. Fish and Wildlife Service (USFWS), and a Biological Assessment will be completed prior to BLM issuing the Proposed RMP/Final EIS. The State Historic Preservation Office also has been consulted regarding this RMP/EIS effort. The BLM also contacted local tribes and government officials to inform them of the planning effort, request the identification of traditional cultural places and resources that should be considered, and invite them to participate in the preparation of the RMP/EIS.

In recent years, illegal activities along the US and Mexico border has increased dramatically involving the smuggling of illegal drugs, contraband, and persons, as well as illegal border crossing by individuals. This increased activity is evident along the southern boundary of Doña Ana County. Consequently, US Customs and Border Protection (CBP) and Office of Border Patrol (CBP-BP) activities have increased as well. In 2008, anti-personnel and anti-vehicle barriers were installed on the Mexico/New Mexico border in Doña Ana County. In March 2006, the Departments of the Interior, Agriculture and Homeland Security and all of their respective constituent Bureaus entered into a Nationwide Memorandum of Understanding (MOU) to provide consistent goals, principles, and guidance related to border security, such as law enforcement operations; tactical infrastructure installation; utilization of roads; minimization or prevention of significant impacts on or impairment of natural and cultural resources; implementation of the Wilderness Act, Endangered Species Act, and other related environmental law, regulation, and policy across land management agencies; and provide for coordination and sharing information on threat assessments and other risks, plans for infrastructure and technology improvements on Federal lands, and operational and law enforcement staffing changes. In meeting the purpose and scope of the 2006 MOU, BLM and CBP-BP meet regularly to discuss, plan and coordinate the two agencies' activities along the border. Parties to the MOU strive to resolve conflicts and delegate resolution authority to the lowest field operational level as possible.